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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

RAC DEVELOPMENT, INC.,

Plaintiff,

v.

JACQUELINE BADIO; DOES 1–10,

Defendants.

Case No. 2:13-cv-06133-ODW(AJWx)

**ORDER REMANDING CASE TO
LOS ANGELES COUNTY
SUPERIOR COURT**

17 On August 21, 2013, Defendant Jacqueline Badio removed this case to this
18 Court—for the second time. (ECF No. 1.) Once again, the Court finds that removal is
19 improper. The Court accordingly **REMANDS** this case to Los Angeles County
20 Superior Court.

21 To be clear, this unlawful-detainer action does not now—nor will it ever—
22 belong in federal court. First, this action does not give rise to a federal question. “The
23 presence or absence of federal-question jurisdiction is governed by the ‘well-pleaded
24 complaint rule,’ which provides that federal jurisdiction exists only when a federal
25 question is presented on the face of the plaintiff’s properly pleaded complaint.”
26 *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). A plaintiff may therefore
27 avoid federal jurisdiction by relying exclusively on state law, and “federal jurisdiction
28 cannot be predicated on an actual or anticipated defense.” *Vaden v. Discover Bank*,

1 556 U.S. 49, 60 (2009); *see also Hunter*, 582 F.3d 1039, 1042–43 (9th Cir. 2009) (“It
2 is settled law that a case may not be removed to federal court on the basis of a federal
3 defense.” (internal quotation marks omitted)).

4 Courts have repeatedly held that unlawful-detainer actions do not present a
5 federal question. *Aurora Loan Servs. v. De La Rosa*, No. 11-912, 2011 U.S. Dist.
6 LEXIS 69217, at *3 (C.D. Cal. June 27, 2011). Moreover, HSBC’s First Amended
7 Complaint does not allege any other federal question, and *any federal defense*
8 *Defendants raise is irrelevant to jurisdiction*. *Vaden*, 556 U.S. at 60; *Hunter*, 582
9 F.3d at 1042–43.

10 Second, the amount in controversy does not exceed the diversity jurisdiction
11 threshold of \$75,000. *See* 28 U.S.C. §§ 1332, 1441(b). “In actions seeking
12 declaratory or injunctive relief, it is well established that the amount in controversy is
13 measured by the value of the object of the litigation.” *Cohn v. Petsmart, Inc.*, 281
14 F.3d 837, 840 (9th Cir. 2002) (quoting *Hunt v. Wash. State Apple Adver. Comm’n*,
15 432 U.S. 333, 347 (1977)). And in unlawful-detainer actions, the title to the property
16 is not the object of the litigation—only the right to possession. *See Evans v. Super.*
17 *Ct.*, 67 Cal. App. 3d 162, 170 (1977). The amount in controversy in an unlawful-
18 detainer action is therefore determined by the amount of damages sought in the
19 complaint, not by the value of the subject property. *Id.*


20 This is also not the first time Badio has tried to remove this case. The Court
21 promptly remanded this case after Badio’s first removal attempt. *RAC Dev., Inc. v.*
22 *Badio*, No. 2:13-cv-5739-ODW(AJWx), ECF No. 4 (C.D. Cal. filed Aug. 8, 2013). A
23 party may not file a second notice of removal based on the same grounds as its first
24 notice of removal where the court remanded the party’s first removal. *St. Paul & C.*
25 *Ry. Co. v. McLean*, 108 U.S. 212, 217 (1883); *see Gibson v. Chrysler Corp.*, 261 F.3d
26 927, 948 (9th Cir. 2001). The Court hereby warns Badio that filing a third notice of
27 removal on the same grounds would be a violation of Federal Rule of Civil Procedure
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1 11(b)(2) and would subject her to \$1,000 in sanctions or other sanctions in the Court's
2 discretion.

3 The Court therefore finds that it lacks jurisdiction and **REMANDS** this case to
4 Los Angeles County Superior Court, case number 13P02233.

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6 **IT IS SO ORDERED.**

7
8 August 26, 2013

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11 **OTIS D. WRIGHT, II**
12 **UNITED STATES DISTRICT JUDGE**
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